

APPROVED

JAN 21 '05

BY GOVERNOR

CHAPTER

2

PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND FIVE

H.P. 6 - L.D. 1

An Act To Increase the State Share of Education Costs,  
Reduce Property Taxes and Reduce Government Spending at All  
Levels

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 5 MRSA §1511, as amended by PL 2003, c. 451, Pt. X, §1, is further amended to read:

§1511. Loan Insurance Reserve

~~The State Controller shall, at the close of each fiscal year, transfer 16% of the Unappropriated Surplus of the General Fund to the Reserve for General Fund Operating Capital until a maximum of \$50,000,000 is achieved.~~ The State Controller is further authorized may, at the close of each fiscal year, to transfer from the Unappropriated Surplus of the General Fund to the Loan Insurance Reserve amounts as may be available from time to time, up to an amount of \$1,000,000 per year after the transfers have been made pursuant to section 1507. The balance of this reserve must be paid to the Finance Authority of Maine if such payment does not cause the balance in the reserve fund maintained by the authority, when added to amounts held in the Finance Authority of Maine Mortgage Insurance Fund that are not committed or encumbered for another purpose, to exceed \$35,000,000. Any balance in the Loan Insurance Reserve is appropriated for this purpose.

1-0328(43)

Sec. A-2. 5 MRSA §1513, as amended by PL 2003, c. 451, Pt. X, §§2 to 4, is repealed.

Sec. A-3. 5 MRSA §1517, as amended by PL 2003, c. 451, Pt. X, §6, is repealed.

Sec. A-4. 5 MRSA §1518-A is enacted to read:

**§1518-A. Tax Relief Fund for Maine Residents**

**1. Tax Relief Fund for Maine Residents.** There is created the Tax Relief Fund for Maine Residents, which must be used to provide tax relief to residents of the State. The fund consists of all resources transferred to the fund under section 1536 and other resources made available to the fund.

**2. Nonlapsing fund.** Any unexpended balance in the Tax Relief Fund for Maine Residents may not lapse but must be carried forward to be used pursuant to subsection 1.

Sec. A-5. 5 MRSA c.142 is enacted to read:

**CHAPTER 142**

**MAINE BUDGET STABILIZATION FUND**

**§1531. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Average population growth.** "Average population growth" means the average for the prior 10 calendar years, ending with the most recent calendar year for which data is available, of the percent change in population from July 1st of each year and estimated by the United States Department of Commerce, Bureau of Census as adjusted and maintained by the Executive Department, State Planning Office.

**2. Average real personal income growth.** "Average real personal income growth" means the average for the prior 10 calendar years, ending with the most recent calendar year for which data is available, of the percent change in personal income in this State, as estimated by the United States Department of Commerce, Bureau of Economic Analysis, less the percent change in the Consumer Price Index for the calendar year. For purposes of this subsection, "Consumer Price Index" has the same meaning as in Title 36, section 5402, subsection 1.

3. Baseline General Fund revenue. "Baseline General Fund revenue" means the recommended General Fund revenue forecast reported by the Revenue Forecasting Committee in its December 1st report of even-numbered years, increased by the estimated amount of net General Fund revenue decrease, if any, for all enacted changes reducing state and local tax burden included in that forecast.

4. Biennial base year appropriation. "Biennial base year appropriation" means:

A. For the 2006-2007 biennium, the General Fund appropriation enacted for fiscal year 2004-05 as of December 1, 2004; and

B. For subsequent fiscal years, the amount of the General Fund appropriation limitation for the current year as of December 1st of even-numbered years.

5. Commissioner. "Commissioner" means the Commissioner of Administrative and Financial Services.

6. Forecasted inflation. "Forecasted inflation" means the average amount of change of the Consumer Price Index for the calendar years that are part of the ensuing biennium forecasted by the Consensus Economic Forecasting Commission in its November 1st report of even-numbered years.

7. General Fund revenue shortfall. "General Fund revenue shortfall" means the amount by which the General Fund appropriation limitation established by section 1534 exceeds baseline General Fund revenue and other available resources in each state fiscal year.

8. Stabilization fund. "Stabilization fund" means the Maine Budget Stabilization Fund established in this chapter.

9. State and local tax burden. "State and local tax burden" means the total amount of state and local taxes paid by Maine residents, per \$1,000 of income, as determined annually by the State Tax Assessor based on data from the United States Department of Commerce, Bureau of Census and Bureau of Economic Analysis.

#### §1532. Maine Budget Stabilization Fund

1. Generally; stabilization fund established. The Maine Budget Stabilization Fund is hereby established. Amounts in the stabilization fund may not exceed 12% of total General Fund revenues in the immediately preceding state fiscal year and,

except as provided by section 1533, may not be reduced below 1% of total General Fund revenue in the immediately preceding state fiscal year. For the purposes of this subsection, at the close of a fiscal year, "immediately preceding state fiscal year" means the fiscal year that is being closed.

2. Expenditures from fund. Except as otherwise provided in this section, amounts in the stabilization fund may be expended only to offset a General Fund revenue shortfall.

3. Fund to be nonlapsing. The balance of the stabilization fund may not lapse but must be carried forward to carry out the purposes of this chapter.

4. Investment of funds. The money in the stabilization fund may be invested as provided by law with the earnings credited to the stabilization fund.

5. Investment proceeds; exception. At the close of every month during which the stabilization fund is at the 12% limitation described in subsection 1, the State Controller shall transfer from the General Fund to the Retirement Allowance Fund established in section 17251 an amount equal to the investment earnings that otherwise would have been credited to the stabilization fund.

6. Death benefits. The Governor shall allocate funds from the stabilization fund as needed to pay benefits due pursuant to Title 25, chapter 195-A. Allocations may be made upon written request of the Chief of the State Police, the State Fire Marshal or the Director of Maine Emergency Medical Services and after consultation with the State Budget Officer.

#### **§1533. Declaration of budget emergency**

If the Legislature has adjourned sine die prior to the close of a fiscal year and the commissioner has provided notification as required by section 1668 that indicates that available General Fund resources will not be sufficient to meet General Fund expenditures, the commissioner may declare a budget emergency. At the close of the fiscal year, the State Controller may transfer from the available balance in the stabilization fund to the General Fund Unappropriated Surplus up to the amount necessary to increase total General Fund resources for that fiscal year to be equal to General Fund expenditures. For the purposes of this section, the Governor may reduce the stabilization fund below the 1% minimum threshold established by section 1532. The Governor shall inform the Legislative Council and the joint standing committee of the Legislature having

jurisdiction over appropriations and financial affairs immediately upon such transfers from the stabilization fund.

**§1534. General Fund appropriation limitation**

**1. Establishment of General Fund appropriation limitation.**  
As of December 1st of each even-numbered year, there must be established a General Fund appropriation limit for the ensuing biennium. The General Fund appropriation limit applies to all General Fund appropriations, except that the additional cost for essential programs and services for kindergarten to grade 12 education under Title 20-A, chapter 606-B over the fiscal year 2004-05 appropriation for general purpose aid for local schools is excluded from the General Fund appropriation limitation until the state share of that cost reaches 55% of the total state and local cost.

A. For the first fiscal year of the biennium, the General Fund appropriation limitation is equal to the biennial base year appropriation multiplied by one plus the growth limitation factor in subsection 2.

B. For the 2nd year of the biennium, the General Fund appropriation limit is the General Fund appropriation limitation of the first year of the biennium multiplied by one plus the growth limitation factor in subsection 2.

**2. Growth limitation factor.** The growth limitation factor is calculated as follows.

A. For fiscal years when the State Tax Assessor has determined that the state and local tax burden ranks in the highest 1/3 of all states, the growth limitation factor is average real personal income growth, but no more than 2.75%, plus average population growth.

B. For fiscal years when the state and local tax burden ranks in the middle 1/3 of all states, as determined by the State Tax Assessor, the growth limitation factor is average real personal income growth plus forecasted inflation plus average population growth.

**3. Exceeding General Fund appropriation limitation; extraordinary circumstances.** The General Fund appropriation limitation established in subsection 1 may be exceeded for extraordinary circumstances only under the following circumstances.

A. The extraordinary circumstances must be circumstances outside the control of the Legislature, including:

- (1) Catastrophic events such as natural disaster, terrorism, fire, war and riot;
- (2) Unfunded or underfunded state or federal mandates;
- (3) Citizens' initiatives or other referenda;
- (4) Court orders or decrees; or
- (5) Loss of federal funding.

Extraordinary circumstances do not include changes in economic conditions, revenue shortfalls, increases in salaries or benefits, new programs or program expansions that go beyond existing program criteria and operation.

B. The appropriation limitation in subsection 1 may be exceeded only by a vote of both Houses of the Legislature in a separate measure that identifies the extraordinary circumstance and the intent of the Legislature to exceed the appropriation limitation.

C. Exceeding the appropriation limitation established in subsection 1 permits appropriations to exceed the appropriation limitation only for the period necessary to address the extraordinary circumstance and does not increase the base for purposes of calculating the appropriation limitation for future years.

4. Increase in appropriation limitation. The appropriation limitation established in subsection 1 may be increased for other purposes only by a vote of both Houses of the Legislature in a separate measure that identifies the intent of the Legislature to exceed the appropriation limitation.

#### **§1535. General Fund transfers to stabilization fund**

Baseline General Fund revenue, as recommended by the Revenue Forecasting Commission and authorized in accordance with chapter 151-B, and other available budgeted General Fund resources that exceed the General Fund appropriation limitation established by section 1534 must be transferred to the stabilization fund. The State Controller, at the close of each fiscal year, shall transfer the available balance remaining in the General Fund to the stabilization fund after all required deductions of appropriations, budgeted financial commitments and other adjustments considered necessary by the State Controller.

#### **§1536. Excess General Fund revenues**

1. First priority reserve. The State Controller shall, as the first priority at the close of each fiscal year, reserve from the unappropriated surplus of the General Fund an amount equal to the excess of total baseline General Fund revenue received over accepted estimates in that fiscal year and transfer that amount at the beginning of the next fiscal year as follows:

A. Thirty-two percent to the stabilization fund;

B. Thirty-two percent to the Retirement Allowance Fund established in section 17251; and

C. Sixteen percent to the Reserve for General Fund Operating Capital.

2. Additional transfer. At the close of each fiscal year, the State Controller shall transfer from the unappropriated surplus of the General Fund to the stabilization fund an amount equal to the balance remaining of the excess of total General Fund revenue received over accepted estimates in that fiscal year that would have been transferred to the Reserve for General Fund Operating Capital pursuant to paragraph C had the Reserve for General Fund Operating Capital not been at its statutory limit of \$50,000,000.

3. Exceptions; stabilization fund at limit. If the stabilization fund is at its limit of 12% of General Fund revenue of the immediately preceding year, then amounts that would otherwise have been transferred to the stabilization fund pursuant to subsections 1 and 2 must be transferred to the Tax Relief Fund for Maine Residents established in section 1518-A.

Sec. A-6. 5 MRSA §1664, last ¶, as enacted by PL 2003, c. 451, Pt X, §8, is amended to read:

The total General Fund appropriation for each fiscal year of the biennium in the Governor's budget submission to the Legislature may not exceed the General Fund appropriation of the previous fiscal year multiplied by one plus the average real personal income growth rate, as defined in section 1665, subsection 1, plus the average forecasted inflation rate limitation established in section 1534. For purposes of this paragraph, "average forecasted inflation rate" means the average forecasted change in the Consumer Price Index underlying the revenue projections developed by the Revenue Forecasting Committee pursuant to chapter 151-B. This appropriation limitation may be exceeded only by the amount of the additional costs or the lost federal revenue from the following exceptional circumstances: unfunded or under-funded new federal mandates;

~~losses-in-federal-revenues-or-other-revenue-sources;-citizens'-  
initiatives-or-referenda-that-require-increased-state-spending;  
court-orders-or-decrees-that-require-additional-state-resources  
to-comply-with-the-orders-or-decrees;-and-sudden-or-significant  
increases-in-demand-for-existing-state-services-that-are-not-the  
result--of--legislative--changes--that--increased--eligibility--or  
increased--benefits.---The--Governor--may--designate--exceptional  
circumstances-that-are-not-explicitly-defined-in-this-paragraph  
but-meet-the-intent-of-this-paragraph.---For-purposes-of-this  
paragraph,---"exceptional--circumstances"---means---an---unforeseen  
condition--or--conditions--over--which--the--Governor--and--the  
Legislature-have-little-or-no-control.---Exceptional-circumstances  
do-not-apply-to-new-programs-or-program-expansions-that-go-beyond  
existing-program-criteria-and-operation.~~

**Sec. A-7. 5 MRSA §1665, sub-§1,** as amended by PL 2003, c. 451, Pt. X, §9, is further amended to read:

**1. Expenditure and appropriation requirements.** On or before September 1st of the even-numbered years, all departments and other agencies of the State Government and corporations and associations receiving or desiring to receive state funds under the provisions of law shall prepare, in the manner prescribed by and on blanks furnished them by the State Budget Officer, and submit to the officer estimates of their expenditure and appropriation requirements for each fiscal year of the ensuing biennium contrasted with the corresponding figures of the last completed fiscal year and the estimated figures for the current fiscal year. The total General Fund appropriation requests submitted by each department and agency for each fiscal year may not exceed the General Fund appropriation of the previous fiscal year multiplied by one plus the average real personal income growth rate or 2.75%, whichever is less. For purposes of this subsection, "average real personal income growth rate" means the average for the prior 10 calendar years, ending with the most recent calendar year for which data is available, of the percent change in personal income in this State for a calendar year, as estimated by the United States Department of Commerce, Bureau of Economic Analysis, less the percent change in the Consumer Price Index for that calendar year. For purposes of this subsection, "Consumer Price Index" has the same meaning as in Title 36, section 5402, subsection 1. The expenditure estimates ~~shall~~ must be classified to set forth the data by funds, organization units, character and objects of expenditure. The organization units may be subclassified by functions and activities, or in any other manner, at the discretion of the State Budget Officer.

All departments and other agencies receiving or desiring to receive state funds from the Highway Fund shall submit to the officer estimates of their expenditure and appropriation



requirements for each fiscal year of the ensuing biennium that do not exceed the Highway Fund appropriation of the previous fiscal year multiplied by one plus the average real personal income growth rate or 2.75%, whichever is less. The Highway Fund highway and bridge improvement accounts are exempt from this spending limitation.

**Sec. A-8. 5 MRSA §1710-F, sub-§4** is enacted to read:

**4. Appropriation limitation.** The committee shall make all determinations necessary to make the appropriation limitation calculations required under chapter 142.

**Sec. A-9. 5 MRSA §13063-C, sub-§4, ¶B,** as amended by PL 2003, c. Pt. X, §10, is further amended to read:

B. Notwithstanding section 1585, any balance remaining in the program after July 31, 2007 must be transferred to the Maine Budget Stabilization Fund as established in section ~~1513~~ 1532.

**Sec. A-10. 5 MRSA §17253, sub-§3,** as enacted by PL 1995, c. 464, is amended to read:

**3. Components of unfunded liability contribution.** The annual valuation report prepared by the actuary in accordance with section 17107 must include identification of the impact on the employer contribution rate of any excess General Fund revenues transferred to the Retirement Allowance Fund pursuant to section ~~1517~~ 1532.

**Sec. A-11. 5 MRSA §22001, sub-§13,** as enacted by PL 2001, c. 439, Pt. T, §5, is amended to read:

**13. Trust fund.** "Trust fund" means the Baxter Compensation Authority Other Special Revenue Fund account authorized pursuant to former section 1513, subsection 1-T, ~~or its successor~~.

**Sec. A-12. 25 MRSA §1612, sub-§7,** as amended by PL 2003, c. 451 X, §13, is further amended to read:

**7. Payment from the Maine Budget Stabilization Fund.** Benefits are payable from the Maine Budget Stabilization Fund as provided in Title 5, section ~~1513~~ 1532, subsection 6.

**Sec. A-13. Transition; stabilization fund.** Any money in the Maine Budget Stabilization Fund on the effective date of this Act is deemed to be in the Maine Budget Stabilization Fund as reconstituted by this Act.

**Sec. A-14. Application of appropriation limit; 2006-2007 biennium.** This Part applies to fiscal biennia beginning on or after July 1, 2005. The appropriation limit for the 2006-2007 biennium must be established based on the status of the factors for calculating the growth limitations as of December 1, 2004.

## **PART B**

**Sec. B-1. 30-A MRSA §706-A** is enacted to read:

### **§706-A. Limitation on county assessments**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

**A. "Average real personal income growth"** means the average for the prior 10 calendar years, ending with the most recent calendar year for which data is available, of the percent change in personal income in this State, as estimated by the United States Department of Commerce, Bureau of Economic Analysis, less the percent change in the Consumer Price Index for the calendar year. For purposes of this subsection, "Consumer Price Index" has the same meaning as in Title 36, section 5402, subsection 1.

**B. "County assessment"** means total annual county appropriations reduced by all resources available to fund those appropriations other than the county tax.

**C. "Forecasted inflation"** means the average amount of change of the Consumer Price Index for the calendar years that are part of the ensuing biennium forecasted by the Consensus Economic Forecasting Commission in its November 1st report of even-number years.

**D. "Property growth factor"** means the percentage equivalent to a fraction established by a county, whose denominator is the total valuation of all municipalities, plantations and unorganized territory in the county, and whose numerator is the amount of increase in the assessed valuation of any real or personal property in those jurisdictions that became subject to taxation for the first time, or taxed as a separate parcel for the first time for the most recent property tax year for which information is available, or that has had an increase in its assessed valuation over the prior year's valuation as a result of improvements to or expansion of the property.

E. "State and local tax burden" means the total amount of state and local taxes paid by Maine residents per \$1,000 of income, as determined annually by the State Tax Assessor based on data from the United States Department of Commerce, Census Bureau and Bureau of Economic Analysis.

2. County assessment limit. Except as otherwise provided in this section, a county may not in any year adopt a county assessment that exceeds the county assessment limit established in this subsection.

A. The county assessment limit for the first fiscal year for which this section is effective is the county assessment for the county for the immediately preceding fiscal year multiplied by one plus the growth limitation factor pursuant to subsection 3.

B. The county assessment limit for subsequent fiscal years is the county assessment limit for the preceding year multiplied by the growth limitation factor pursuant to subsection 3.

C. If a previous year's county assessment reflects the effect of extraordinary, nonrecurring events, the county may submit a written notice to the State Tax Assessor requesting an adjustment in its county assessment limit.

3. Growth limitation factor. The growth limitation factor is calculated as follows.

A. For fiscal years when the State Tax Assessor has determined that the state and local tax burden ranks in the highest 1/3 of all states, the growth limitation factor is average real personal income growth but no more than 2.75%, plus the property growth factor.

B. For fiscal years when the state and local tax burden ranks in the middle 1/3 of all states, as determined by the State Tax Assessor, the growth limitation factor is the average real personal income growth plus forecasted inflation plus the property growth factor.

4. Adjustment for new state funding. If the State provides net new funding to a county for existing services funded in whole or in part by the county assessment, other than required state mandate funds pursuant to section 5685 that do not displace current county assessment expenditures, the county shall lower its county assessment limit in that year in an amount equal to the net new funds. For purposes of this subsection, "net new funds" means the amount of funds received by the county from the

State in that fiscal year, with respect to services funded in whole or in part by the county assessment, less the product of the following: the amount of such funds received in the prior fiscal year multiplied by the growth limitation factor described in subsection 3. If a county receives net new funds in any fiscal year for which its county assessment limit has not been adjusted as provided in this subsection, the county shall adjust its county assessment limit in the following year in an amount equal to the net new funds.

5. Exceeding county assessment limit; extraordinary circumstances. The county assessment limit established in subsection 2 may be exceeded for extraordinary circumstances only under the following circumstances.

A. The extraordinary circumstances must be circumstances outside the control of the county budget authority, including:

(1) Catastrophic events such as natural disaster, terrorism, fire, war or riot;

(2) Unfunded or underfunded state or federal mandates;

(3) Citizens' initiatives or other referenda;

(4) Court orders or decrees; or

(5) Loss of state or federal funding.

Extraordinary circumstances do not include changes in economic conditions, revenue shortfalls, increases in salaries or benefits, new programs or program expansions that go beyond existing program criteria and operation.

B. The county assessment limit may be exceeded only as provided in subsection 7.

C. Exceeding the county assessment limit established in subsection 2 permits the county assessment to exceed the county assessment limit only for the year in which the extraordinary circumstance occurs and does not increase the base for purposes of calculating the county assessment limit for future years.

6. Increase in county assessment limit. The county assessment limit established in subsection 2 may be increased for other purposes only as provided in subsection 7.

7. Process for exceeding county assessment limit. A county may exceed or increase the county assessment limit only if approved by a vote of a majority of all the members of both the county budget committee or county budget advisory committee and the county commissioners.

Unless a county charter otherwise provides or prohibits a petition and referendum process, if a written petition, signed by at least 10% of the number of voters voting in the last gubernatorial election in the county, requesting a vote on the question of exceeding the county assessment limit is submitted to the county commissioners within 30 days of the commissioners' vote pursuant to this subsection, the article voted on by the commissioners must be submitted to the legal voters in the next regular election or a special election called for that purpose. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the clerk to post a new list of voters. For the purpose of registration of voters, the registrar of voters must be in session the secular day preceding the election. The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the article. The results must be declared by the county commissioners and entered upon the county records.

8. Treatment of surplus; reserves. Any county tax revenues collected by a county in any fiscal year in excess of its county assessment limit, as determined by a final audited accounting, must be transferred to a county tax relief fund, which each county must establish, and used to reduce county assessments in subsequent fiscal years. Nothing in this subsection limits the ability of a county to maintain adequate reserves.

9. Enforcement. If a county adopts a county assessment in violation of this section, the State Tax Assessor may require the county to adjust its county assessment downward in an amount equal to the illegal county assessment and impose such other penalties as the Legislature may provide.

**Sec. B-2. Application.** This Part applies to county fiscal years that begin on or after July 1, 2005.

**Sec. B-3. Retroactivity.** This Part applies retroactively to July 2005.

## **PART C**

**Sec. C-1. 30-A MRS §5721-A** is enacted to read:

**§5721-A. Limitation on municipal property tax levy**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Average real personal income growth" means the average for the prior 10 calendar years, ending with the most recent calendar year for which data is available, of the percent change in personal income in this State, as estimated by the United States Department of Commerce, Bureau of Economic Analysis, less the percent change in the Consumer Price Index for the calendar year. For purposes of this subsection, "Consumer Price Index" has the same meaning as in Title 36, section 5402, subsection 1.

B. "Forecasted inflation" means the average amount of change of the Consumer Price Index for the calendar years that are part of the ensuing biennium forecasted by the Consensus Economic Forecasting Commission in its November 1st report of even-number years.

C. "Property growth factor" means the percentage equivalent to a fraction established by a municipality, whose denominator is the total valuation of the municipality, and whose numerator is the amount of increase in the assessed valuation of any real or personal property in the municipality that became subject to taxation for the first time, or taxed as a separate parcel for the first time for the most recent property tax year for which information is available, or that has had an increase in its assessed valuation over the prior year's valuation as a result of improvements to or expansion of the property.

D. "Property tax levy" means the total annual municipal appropriations, excluding assessments properly issued by a county of which the municipality is a member and amounts governed by and appropriated in accordance with Title 20-A, chapter 606-B, appropriated as the local share of the cost of essential programs and services under Title 20-A, chapter 606-B, to pay assessments properly issued by a school administrative unit or tuition for students or amounts attributable to a tax increment financing district agreement or similar special tax district, reduced by all resources available to fund those appropriations other than the property tax.

E. "State and local tax burden" means the total amount of state and local taxes paid by Maine residents per \$1,000 of income, as determined annually by the State Tax Assessor

based on data from the United States Department of Commerce, Census Bureau and Bureau of Economic Analysis.

2. Property tax levy limit. Except as otherwise provided in this section, a municipality may not in any year adopt a property tax levy that exceeds the property tax levy limit established in this subsection.

A. The property tax levy limit for the first fiscal year for which this section is effective is the property tax levy for the municipality for the immediately preceding fiscal year multiplied by one plus the growth limitation factor pursuant to subsection 3.

B. The property tax levy limit for subsequent fiscal years is the property tax levy limit for the preceding year multiplied by the growth limitation factor pursuant to subsection 3.

C. If a previous year's property tax levy reflects the effect of extraordinary, nonrecurring events, the municipality may submit a written notice to the State Tax Assessor requesting an adjustment in its property tax levy limit.

3. Growth limitation factor. The growth limitation factor is calculated as follows.

A. For fiscal years when the State Tax Assessor has determined that the state and local tax burden ranks in the highest 1/3 of all states, the growth limitation factor is average real personal income growth but no more than 2.75%, plus the property growth factor.

B. For fiscal years when the state and local tax burden ranks in the middle 1/3 of all states, as determined by the State Tax Assessor, the growth limitation factor is the average real personal income growth plus forecasted inflation plus the property growth factor.

4. Adjustment for new state funding. If the State provides net new funding to a municipality for existing services funded in whole or in part by the property tax levy, other than required state mandate funds pursuant to section 5685 that do not displace current property tax expenditures, the municipality shall lower its property tax levy limit in that year in an amount equal to the net new funds. For purposes of this subsection, "net new funds" means the amount of funds received by the municipality from the State in that fiscal year, with respect to services funded in whole or in part by the property tax levy.

less the product of the following: the amount of such funds received in the prior fiscal year multiplied by the growth limitation factor described in subsection 3. If a municipality receives net new funds in any fiscal year for which its property tax levy limit has not been adjusted as provided in this subsection, the municipality shall adjust its property tax levy limit in the following year in an amount equal to the net new funds.

5. Exceeding property tax levy limit; extraordinary circumstances. The property tax levy limit established in subsection 2 may be exceeded for extraordinary circumstances only under the following circumstances.

A. The extraordinary circumstances must be circumstances outside the control of the municipal legislative body, including:

- (1) Catastrophic events such as natural disaster, terrorism, fire, war or riot;
- (2) Unfunded or underfunded state or federal mandates;
- (3) Citizens' initiatives or other referenda;
- (4) Court orders or decrees; or
- (5) Loss of state or federal funding.

Extraordinary circumstances do not include changes in economic conditions, revenue shortfalls, increases in salaries or benefits, new programs or program expansions that go beyond existing program criteria and operation.

B. The property tax levy limit may be exceeded only as provided in subsection 7.

C. Exceeding the property tax levy limit established in subsection 2 permits the property tax levy to exceed the property tax levy limit only for the year in which the extraordinary circumstance occurs and does not increase the base for purposes of calculating the property tax levy limit for future years.

6. Increase in property tax levy limit. The property tax levy limit established in subsection 2 may be increased for other purposes only as provided in subsection 7.



7. Process for exceeding property tax levy limit. A municipality may exceed or increase the property tax levy limit only by the following means.

A. If the municipal budget is adopted by town meeting or by referendum, the property tax levy limit may be exceeded by the same process that applies to adoption of the municipal budget except that the vote must be by written ballot on a separate article that specifically identifies the intent to exceed the property tax levy limit.

B. If the municipal budget is adopted by a town council or city council, the property tax levy limit may be exceeded only by a majority vote of all the elected members of the town council or city council on a separate article that specifically identifies the intent to exceed the property tax levy limit. Unless a municipal charter otherwise provides or prohibits a petition and referendum process, if a written petition, signed by at least 10% of the number of voters voting in the last gubernatorial election in the municipality, requesting a vote on the question of exceeding the property tax levy limit is submitted to the municipal officers within 30 days of the council's vote pursuant to this paragraph, the article voted on by the council must be submitted to the legal voters in the next regular election or a special election called for that purpose. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the clerk to post a new list of voters. For the purpose of registration of voters, the registrar of voters must be in session the secular day preceding the election. The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the article. The results must be declared by the municipal officers and entered upon the municipal records.

8. Treatment of surplus; reserves. Any property tax revenues collected by a municipality in any fiscal year in excess of its property tax levy limit, as determined by a final audited accounting, must be transferred to a property tax relief fund, which each municipality must establish, and used to reduce property tax levies in subsequent fiscal years. Nothing in this subsection limits the ability of a municipality to maintain adequate reserves pursuant to section 5801.

9. Fractional divisions. A municipality may, consistent with Title 36, section 710, exceed its property tax levy limit in such reasonable amount as necessary to avoid fractional divisions.

10. Enforcement. If a municipality adopts a property tax levy in violation of this section, the State Tax Assessor may require the municipality to adjust its property tax levy downward in an amount equal to the illegal property tax levy and impose such other penalties as the Legislature may provide.

**Sec. C-2. 30-A MRSA §7102**, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended by adding at the end a new paragraph to read:

The property tax levy limits set forth in section 5721-A apply to the budgets and property tax levies of plantations.

**Sec. C-3. Application.** This Part applies to municipal fiscal years that begin on or after July 1, 2005.

**Sec. C-4. Retroactivity.** This Part applies retroactively to July 1, 2005.

## **PART D**

**Sec. D-1. 5 MRSA §17154, sub-§6, ¶E**, as amended by PL 2003, c. 504, B, §1, is further amended to read:

E. Notwithstanding this section, the employer retirement costs related to the retirement system applicable to those teachers whose funding is provided directly or through reimbursement from private or public grants must be paid by local school systems from those funds. "Public grants" does not include state or local funds provided to school administrative units under Title 20-A, chapters 3157-606 and 606-B.

**Sec. D-2. 20-A MRSA §1, sub-§§17 and 18**, as amended by PL 1999, c §1, are further amended to read:

**17. Major capital costs.** "Major capital costs" is defined in section ~~15603~~, ~~subsection 17~~ 15672, subsection 18-A.

**18. Minor capital costs.** "Minor capital costs" is defined in section ~~15603~~, ~~subsection 18~~ 15672, subsection 20-A.

**Sec. D-3. 20-A MRSA §1301, sub-§1, ¶A**, as amended by PL 1993, c 410, Pt. F, §3, is further amended to read:

A. Under a property valuation method, municipalities in a district shall share costs in the same proportion as each municipality's fiscal capacity as defined in section ~~15603~~,

~~subsection--11-A 15672, subsection 23~~ is to the district's fiscal capacity.

**Sec. D-4. 20-A MRSA §1301, sub-§1, ¶B,** as amended by PL 2001, c. §1, is further amended to read:

B. Under an alternate plan approved by the state board and by a vote of the legislative bodies of the school administrative units forming the district and based on:

- (1) The number of resident pupils in each town;
- (2) The fiscal capacity of each member municipality as defined in section ~~15603,--subsection--11-A 15672,~~ subsection 23;
- (3) Any combination of subparagraphs (1) and (2); or
- (4) Any other factor or combination of factors that may, but need not, include subparagraphs (1) and (2).

**Sec. D-5. 20-A MRSA §1307, sub-§3,** as amended by PL 1997, c. 68, is further amended to read:

**3. Summary action.** To summarize the action taken on the school budget for the purposes of determining state and local cost sharing, the articles prescribed in chapter ~~606~~ 606-B must also be voted upon.

**Sec. D-6. 20-A MRSA §1307, sub-§4,** as enacted by PL 1997, c. 68 §2, is amended to read:

**4. Budget explanation.** The warrant may include an explanation of the relationship between warrant articles authorizing specific line item expenditures as provided in subsection 1 and the articles prescribed in chapter ~~606~~ 606-B summarizing the budget proposal.

**Sec. D-7. 20-A MRSA §1308,** as amended by PL 1999, c. 710, §6, is further amended to read:

**§1308. Failure to pass budget**

If a budget for the operating of the district is not approved prior to July 1st, the latest budget as submitted by the board of directors is automatically considered the budget for operational expenses for the ensuing year until a final budget is approved, except that, when the school board delays the school budget meeting in accordance with section ~~15617~~ 15693, subsection 2, paragraph C, the operating budget must be approved within 30

days of the date the commissioner notifies the school board of the amount allocated to the school unit under section ~~15613~~ 15689-B or the latest budget submitted by the directors becomes the operating budget for the next school year.

**Sec. D-8. 20-A MRSA §1311, sub-§1, ¶C,** as amended by PL 1993, c. §4, is further amended to read:

C. Minor capital costs as defined in section ~~15603, subsection-18~~ 15672, subsection 20-A.

**Sec. D-9. 20-A MRSA §1351, sub-§1, ¶K,** as amended by PL 1999, c. 75, §2, is further amended to read:

K. To borrow funds for minor capital costs as defined in section ~~15603, subsection-18~~ 15672, subsection 20-A.

**Sec. D-10. 20-A MRSA §1407, sub-§2,** as amended by PL 1999, c. 75, is further amended to read:

2. **Expense of keeping the school open.** If the voters vote to keep the school open, the member municipality is liable for some additional expense for actual local operating costs and transportation operating costs as defined in section ~~15603~~ 15672. The determination of costs is subject to the approval of the commissioner. The cost to be borne by the town voting to keep an elementary school open is the amount that would be saved if the school were closed. Any additional costs that must be borne by the member municipality must be part of the article presented to the voters at the meeting to determine whether the school should remain open.

**Sec. D-11. 20-A MRSA §1701, sub-§3,** as amended by PL 1991, c. 429, is further amended to read:

3. **Time and place.** The district school committee shall call an annual budget meeting on or before June 30th at an hour and in a location within the community school district it designates, except that the school committee may delay the annual budget meeting to a date after July 1st in accordance with section ~~15617~~ 15693, subsection 2, paragraph C.

**Sec. D-12. 20-A MRSA §1701, sub-§9, ¶A,** as amended by PL 1999, c. §8, is further amended to read:

A. The budget format may be determined by the voters of a community school district by adoption of an appropriate warrant article at a properly called election held in accordance with the procedure set forth in section ~~15617~~ 15693, subsection 6.

**Sec. D-13. 20-A MRSA §1701, sub-§12**, as amended by PL 1999, c. §10, is further amended to read:

**12. State-local allocations.** To summarize the action taken on the budget for the purposes of determining the community school district's state-local allocations, the articles prescribed in chapter 606 ~~606-B~~ must also be voted on.

**Sec. D-14. 20-A MRSA §1701-B, sub-§5**, as enacted by PL 1999, c. 710, §11, is amended to read:

**5. Failure to approve budget.** If the voters do not validate the budget approved in the district budget meeting at the budget validation referendum vote, the district school committee shall hold another district budget meeting in accordance with section 1701, subsection 8 at least 10 days after the referendum to vote on a budget approved by the committee. The budget approved at the district budget meeting must be submitted to the voters for validation at referendum in accordance with this section. The process must be repeated until a budget is approved at a district budget meeting and validated at referendum. If a budget is not approved and validated before July 1st of each year, the latest budget submitted by the committee is automatically considered the budget for operational expenses for the ensuing year until a final budget is approved, except that when the school committee delays the district budget meeting in accordance with section ~~15617~~ 15693, subsection 2, paragraph C the operating budget must be approved within 30 days of the date the commissioner notifies the school committee of the amount allocated to the school unit under section ~~15613~~ 15689-B or the latest budget submitted by the committee becomes the operating budget for the next school year.

**Sec. D-15. 20-A MRSA §1704, sub-§1, ¶B**, as amended by PL 1993, c. 410, Pt. F, §4, is further amended to read:

B. The fiscal capacity of each member municipality as defined in section ~~15693,--subsection--11-A~~ 15672, subsection 23;

**Sec. D-16. 20-A MRSA §4003-A** is enacted to read:

**§4003-A. Hazardous chemicals**

The commissioner shall establish rules governing the purchase and storage of hazardous chemicals in schools.

**Sec. D-17. 20-A MRSA §4254, sub-§1**, as amended by PL 1997, c. §3, is further amended to read:

1. **Allowable costs.** Allowable costs are the cost of implementing approved plans; these costs may be added to the school unit's subsidizable costs under chapter ~~606~~ 606-B.

**Sec. D-18. 20-A MRSA §5401, sub-§15, ¶C,** as amended by PL 2001, c. 667, Pt. C, §11, is further amended to read:

C. A school board may obtain a short-term loan or enter into a lease-purchase agreement to acquire school buses if the loan is approved by the unit's legislative body or if funds that can be used for the initial lease-purchase payment have been appropriated by the unit's legislative body. The term of a loan or a lease-purchase agreement may not exceed 5 years. The commissioner shall establish a maximum amount for annual-term purchases in excess of the amount established in paragraph A. Beginning in fiscal year ~~2003-04~~ 2005-06, these expenditures must be subsidized in accordance with ~~section-15603, subsection-26-A~~ chapter 606-B.

**Sec. D-19. 20-A MRSA §6303,** as enacted by PL 1995, c. 427, §1, is amended to read:

**§6303. Medicaid for health and human services**

A school administrative unit may receive funds from the Medicaid program pursuant to the United States Social Security Act, 42 United States Code, for the provision of preventive health, health, habilitation, rehabilitation and social services to eligible students ~~in accordance with section-15613, subsection 16.~~

**Sec. D-20. 20-A MRSA §6651, sub-§3,** as amended by PL 1989, c. 414 §16, is repealed.

**Sec. D-21. 20-A MRSA §6654,** as amended by PL 1991, c. 550 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

**§6654. School-based child care grants**

The department and the Department of Health and Human Services are authorized to provide assistance to school administrative units to assist the units in establishing school-based child care services. ~~Any assistance provided must provide funds for 2 years and expenditure of those funds is considered expenditure of local funds in computing the unit's educational program costs in chapter 606. The department has full authority to administer any grant program that it operates under this section.~~

**Sec. D-22. 20-A MRSA §7734-A, first ¶**, as repealed and replaced by PL 1999, c. 296, §10, is amended to read:

In addition to the programs authorized in this chapter, school administrative units may provide services for children who are disabled in a manner consistent with sections 4251 to 4254, and the cost of such services is subsidizable as special education costs under chapter 606 606-B.

**Sec. D-23. 20-A MRSA §8301-A, sub-§§4 and 9**, as enacted by PL 1991, c. 518, §2, are amended to read:

**4. Municipality.** "Municipality" has the same meaning as in section ~~15603, subsection 19~~ 15672, subsection 21.

**9. State subsidy.** "State subsidy" has the same meaning as in section ~~15603, subsection 26~~ 15672, subsection 31-A.

**Sec. D-24. 20-A MRSA §8351**, as amended by PL 1991, c. 518, §9 and c. 716, §6 and PL 2003, c. 545, §5, is further amended to read:

**§8351. State aid for career and technical education centers and career and technical education regions**

State aid for centers and regions must be administered in accordance with chapters 606 606-B and 609 and Title 20, section 3457.

**Sec. D-25. 20-A MRSA §8402**, as corrected by RR 2003, c. 2, §55, is amended to read:

**§8402. Programs**

A center shall provide programs of career and technical education. Programs of career and technical education are eligible to receive state subsidy pursuant to chapters 606 606-B and 609. All programs of career and technical education offered by a center must be approved by the commissioner pursuant to section 8306-A. The programs must offer a sequence of courses that are directly related to the preparation of individuals for employment in current or emerging occupations and may include training and education in academic and business skills preparing students to further their education at the community college or other college level or allowing students to use trade and occupational skills on other than an employee basis. Programs of career and technical education may also include alternative educational programs and training and education in music, athletics, art and other activities approved by the commissioner pursuant to section 8306-A.

**Sec. D-26. 20-A MRSA §8404, sub-§3, ¶C,** as corrected by RR 2003, c. 2, §59, is amended to read:

C. Shall, in the event that the school boards of School Administrative District No. 27, School Administrative District No. 33 and Madawaska School Department enter into a cooperative agreement pursuant to section 8401 and a new career and technical education center in Maine School Administrative District No. 33 becomes operational, devise a cost sharing formula for the center established thereby pertaining to the cost of career and technical education programs that exceed expenditures made for those programs in the base year as adjusted pursuant to section ~~15603~~ 15681-A, subsection ~~-5-~~ 4 and to the local share of debt service costs attributable to construction of the center in School Administrative District No. 33;

**Sec. D-27. 20-A MRSA §8451-A,** as corrected by RR 2003, c. 2, §61, is amended to read:

**§8451-A. Programs**

A region shall provide programs of career and technical education. Programs of career and technical education are eligible to receive state subsidy pursuant to chapters ~~606~~ 606-B and 609. All programs of career and technical education offered by a region must be approved by the commissioner pursuant to section 8306-A. The programs must offer a sequence of courses that are directly related to the preparation of individuals for employment in current or emerging occupations and may include training and education in academic and business skills preparing students to further their education at the community college or college level or allowing students to use trade and occupational skills on other than an employee basis. Programs of career and technical education may also include alternative educational programs and training and education in music, athletics, art and other activities approved by the commissioner pursuant to section 8306-A.

**Sec. D-28. 20-A MRSA §8601-A, sub-§6,** as enacted by PL 1991, c. §33, is amended to read:

**6. Municipality.** "Municipality" has the same meaning as in section ~~15603, subsection 19~~ 15672, subsection 21.

**Sec. D-29. 20-A MRSA §8605, sub-§2, ¶B,** as amended by PL 1995, c. Pt. J, §1, is further amended to read:



B. The unit in which such a person resides must be reimbursed in accordance with ~~ehapters-606-and-606-A~~ chapter 606-B.

**Sec. D-30. 20-A MRSA §8606-A, sub-§2, ¶C**, as amended by PL 1991, c §38, is further amended to read:

C. The recommendation in the commissioner's funding level certification must include local program cost adjustment to the equivalent of the year prior to the year of allocation. This adjustment is calculated according to the same guidelines established, for purposes of chapter 606 606-B, by section ~~15605~~ 15689-C, subsection 3.

**Sec. D-31. 20-A MRSA §15622** is enacted to read:

**§15622. Repeal**

This chapter is repealed July 1, 2005.

**Sec. D-32. 20-A MRSA §15671, sub-§1**, as amended by PL 2003, c. 712, is further amended to read:

**1. State and local partnership.** The State and each local school administrative unit are jointly responsible for contributing to the cost of the components of essential programs and services described in this chapter. Except as otherwise provided in this subsection, for each fiscal year, the total cost of the components of essential programs and services may not exceed the prior fiscal year's costs multiplied by one plus the average real personal income growth rate as defined in Title 5, section 1665, subsection 1, except that in no case may that rate exceed 2.75%. For fiscal years commencing after the state tax burden ranks in the middle 1/3 of all states, as calculated and certified by the State Tax Assessor, the total cost of the components of essential programs and services may not exceed the prior fiscal year's costs multiplied by one plus the average real personal income growth rate as defined in Title 5, section 1665, subsection 1. The Legislature, by an affirmative vote of each House, may exceed the limitations on increases in the total cost of the components of essential programs and services provided in this subsection, as long as that vote is taken upon legislation stating that it is the Legislature's intent to override the limitation for that fiscal year. The state contribution to the cost of the components of essential programs and services, exclusive of federal funds that are provided and accounted for in the cost of the components of essential programs and services, must be made in accordance with this subsection:

A. The level of the state share of funding attributable to the cost of the components of essential programs and services must be at least 50% of eligible state and local General Fund education costs statewide, no later than fiscal year ~~2007-08~~ 2006-07; and

B. By fiscal year ~~2009-10~~ 2008-09 the state share of the total cost of funding public education from kindergarten to grade 12, as described by essential programs and services, must be 55%. Beginning in fiscal year 2005-06 and in each fiscal year until fiscal year ~~2009-10~~ 2008-09, the state share of essential programs and services described costs must increase toward the 55% level required in fiscal year ~~2009-10~~ 2008-09.

Beginning in fiscal year 2005-06 and in each fiscal year thereafter, the commissioner shall use the funding level determined in accordance with this section as the basis for a recommended funding level for the state share of the cost of the components of essential programs and services.

**Sec. D-33. 20-A MRSA §15671, sub-§§2, 3, 4 and 6, as enacted by PL 2001 c. 660, §1, are amended to read:**

**2. Per-pupil rate amounts.** A per-pupil guarantee rate represents the an amount of funds that is to be made available for each subsidizable pupil. ~~Three-per-pupil-guarantee-amounts must-be-calculated,-reflecting-grade-level-cost-differences,-one-for-kindergarten-to-grade-5,-one-for-grades-6-to-8-and-one-for-grades-9-to-12,-These-per-pupil-guarantees-must-be-modified-as-appropriate-for-special-student-populations,-The-per-pupil-guarantee-represents-the-annual-cost-of-staffing-and-material-resources-that-are-appropriately-allocated-on-a-per-pupil-basis. Categories-of-staffing-and-resources-are-as-follows: Per-pupil rates are determined pursuant to section 15676.~~

~~A.--School-personnel,-including-regular-and-special-subject teachers,-educational-technicians,-guidance,-library,-health services,-school-administration,-support-or-clerical-staff and-substitute-teachers;~~

~~B.--Supplies-and-equipment;~~

~~C.----Specialized----services,----including----professional development,---instructional---leadership---support,---student assessment,-technology-and-co-curricular-and-extracurricular programs;-and~~

~~D.--School-administrative-unit-services,-including-system administration-and-operation-and-maintenance-of-plant.~~

**3. Specialized student populations.** In recognition that educational needs can be more costly for some student populations than for others, ~~modified-per-pupil-guarantee-amounts-or-weighted-pupil-counts--must--be--calculated--for--specialized--student-populations~~ special student populations are specifically addressed in sections 15675 and 15681-A, subsection 2. The ~~specialized-student-populations-to-be-addressed-are:~~

~~A--Special-education-students;~~

~~B--Limited-English-proficiency-students;~~

~~C--Economically-disadvantaged-students;-and~~

~~D--Students-in-kindergarten-to-grade-2.~~

**4. Educational cost components outside the per-pupil rate.** A per-pupil guarantee rate is not a suitable method for allocation of all educational cost components. These components may include, but are not limited to, debt service, transportation, bus purchases, vocational education, small school adjustments, teacher educational attainment and longevity of service and adjustments to general purpose aid. The funding methodology of these educational cost components must be established based on available research.

**6. Targeted funds.** Funds for technology, assessment and the costs of additional investments in educating children in kindergarten to grade 2 as described in section 15681 must be provided as targeted grants. School administrative units shall submit a plan for the use of these funds and shall receive funding based on approval of the plan by the commissioner.

**Sec. D-34. 20-A MRSA §15671, sub-§7,** as amended by PL 2003, c. 712, §10, is further amended to read:

**7. Transition; annual targets.** To achieve the system of school funding based on essential programs and services required by this section, the following annual targets are established.

A. The base total calculated pursuant to section 15683, subsection 2 is subject to the following annual targets for the essential programs and services transition percentage, excluding program cost allocation, debt service allocation and adjustments, are as follows.

For fiscal year 2005-06, the target is 84%.

For fiscal year 2006-07, the target is 88% 90%.

For fiscal year 2007-08, the target is 92% 95%.

(4) For fiscal year 2008-09 and succeeding years, the target is 96% 100%.

~~(5) -- For fiscal year 2009-10 and succeeding years, -- the target is 100%.~~

B. The annual targets for the state share percentage of the statewide adjusted total cost of the components of essential programs and services are as follows.

For fiscal year 2005-06, the target is 52.6%

(2) For fiscal year 2006-07, the target is 52.6% 53.86%.

For fiscal year 2007-08, the target is 53% 54.44%.

(4) For fiscal year 2008-09 and succeeding years, the target is 54% 55%.

~~(5) -- For fiscal year 2009-10 and succeeding years, -- the target is 55%.~~

Sec. D-35. 20-A MRSA §15671-A, as enacted by PL 2003, c. 712, §11, is amended to read:

**§15671-A. Property tax contribution to public education**

1. **Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Funding public education from kindergarten to grade 12" means providing the cost of funding the essential programs and services described in this chapter plus, including the total allocations for program-cost other subsidizable costs, debt service costs and adjustments.

B. "Local cost share expectation" means the maximum amount of money for funding public education from kindergarten to grade 12 that may be derived from property tax for the required local contribution established in section 15688, subsection -3- 3-A.

C. "Statewide total local share" means the local share, calculated on a statewide basis, of the statewide total cost of the components of essential programs and services as

adjusted pursuant to section 15671, subsection 7 to reflect the application of the transition targets to the base total component.

D. "Statewide valuation" means the certified total state valuation for the year prior to the most recently certified total state valuation for all municipalities statewide.

2. Local cost share expectation. The--local--cost--share expectation---is---established---as---follows. This subsection establishes full-value education mill rates that limit a municipality's required local contribution pursuant to section 15688, subsection 3-A. The full-value mill rates represent rates that, if applied to the statewide valuation, would produce the statewide total local share. Notwithstanding any other provision of law, with respect to the assessment of any property taxes for property tax years beginning on or after April 1, 2005, a municipality's required local contribution determined pursuant to section 15688, subsection 3-A establishes the local cost share expectation for that municipality.

A. Notwithstanding-any-other-provision-of-law,with-respect to-the-assessment-of-any-property-taxes-for-property-tax years-beginning-on-or-after-April-1,2005,-this-subsection establishes-the-local-cost-share-expectation-that-may-be assessed-on-the-value-of-property-for-the-purpose-of-funding public--education--from--kindergarten--to--grade--12. The commissioner shall annually by February 1st notify each school administrative unit of its local cost share expectation. Each superintendent shall report to the municipal officers whenever a school administrative unit is notified of the local cost share expectation or a change made in the local cost share expectation resulting from an adjustment.

B. For property tax years beginning on or after April 1, 2005, the commissioner shall calculate the full-value education mill rate that is required to raise the statewide total of-the local cost share expectation. The full-value education mill rate is calculated for each fiscal year by dividing the applicable tax-year-percentage-of-the-projected cost-of-funding-public-education-from-kindergarten-to-grade 12 statewide total local share by the certified-total-state applicable statewide valuation for-the-year-prior-to-the most-recently-certified-total-state-valuation-for-all municipalities. The full-value education mill rate must decline over the period from fiscal year 2005-06 to fiscal year 2009-10 2008-09 and may not exceed 9.0 mills in fiscal year 2005-06 and may not exceed 8.0 mills in fiscal year 2009-10 2008-09. The full-value education mill rate must be

applied according to section 15688, subsection --3- 3-A, paragraph A to determine a municipality's local cost share expectation. Full-value education mill rates must be derived according to the following schedule.

(1) For the 2005 property tax year, the full-value education mill rate is the amount necessary to result in a 47.4% statewide total local share in fiscal year 2005-06.

(2) For the 2006 property tax year, the full-value education mill rate is the amount necessary to result in a 47.4% 46.14% statewide total local share in fiscal year 2006-07.

(3) For the 2007 property tax year, the full-value education mill rate is the amount necessary to result in a 47.0% 45.56% statewide total local share in fiscal year 2007-08.

(4) For the 2008 property tax year, the full-value education mill rate is the amount necessary to result in a 46.0% 45.0% statewide total local share in fiscal year 2008-09.

~~(5) -- For the 2009 property tax year, the full-value education mill rate is the amount necessary to result in a 45.0% local share in fiscal year 2009-10.~~

**3. Exceeding maximum local cost share expectations; separate article.** Beginning with the 2005-2006 school budget, the legislative body of a school administrative unit may adopt ~~property-tax-rates~~ an additional local appropriation that exceeds the local cost share expectation established by section 15688, subsection --3- 3-A, paragraph A only if that action is approved in a separate article by a vote of the school administrative unit's legislative body through the same process that the school budget is approved in that school administrative unit and in accordance with section 15690. If that additional appropriation causes the school administrative unit to exceed the maximum state and local spending target described in subsection 4, the requirements of subsection 5 apply.

**4. Maximum state and local spending target.** The maximum state and local spending target for a school administrative unit is the sum of the following costs calculated by the commissioner for the unit:

A. The base total calculated pursuant to section 15683, subsection 1 without the adjustment for transition targets under section 15671, subsection 7, paragraph A;

B. Other subsidizable costs described in section 15681-A; and

C. The debt service allocation pursuant to section 15683-A.

The commissioner shall annually notify each school administrative unit of its maximum state and local spending target.

5. Exceeding maximum state and local spending target. If the sum of a school administrative unit's required local contribution determined pursuant to section 15688, subsection 3-A plus the state contribution as calculated pursuant to section 15688, subsection 3-A, paragraph D plus any additional local amount proposed to be raised pursuant to section 15690, subsection 3 exceeds the school administrative unit's maximum state and local spending target established pursuant to subsection 4, the following provisions govern approval of that additional amount.

A. The article approving the additional amount must conform to the requirements of section 15690, subsection 3, paragraph B. Notwithstanding section 1304, subsection 6; section 1701, subsection 7; Title 30-A, section 2528, subsection 5, or any other provision of law, municipal charter provision or ordinance, voter approval of the article, whether in town meeting, district meeting or other voting process established by law, municipal charter or ordinance, including, but not limited to, any vote on the article initiated by voter petition, must be by referendum or written ballot.

B. In a municipality where the responsibility for final adoption of the school budget is vested by the municipal charter in a council, this paragraph applies, except that the petition and referendum provisions apply only if the municipal charter does not otherwise provide for or prohibit a petition and referendum process with respect to the matters described in this paragraph.

(1) A majority of the entire membership of the school board or committee must approve the additional amount in a regular budget meeting.

(2) An article approving the additional amount must conform to the requirements of section 15690, subsection 3, paragraph B and be approved by a majority

of the entire membership of the council in a vote taken in accordance with section 15690, subsection 5 or, if the council votes not to approve the article, by a majority of voters voting in a referendum called pursuant to subparagraph (4).

(3) If an article is approved by the council pursuant to subparagraph (2), the voters may petition for a referendum vote on the same article in accordance with subparagraph (4). If a petition is filed in accordance with subparagraph (4), the vote of the council is suspended pending the outcome of the referendum vote. Upon approval of the article by a majority of the voters voting in that referendum, the article takes effect. If the article is not approved by a majority of the voters voting in that referendum, the article does not take effect. Subsequent to the vote, the school committee or board may again propose an additional amount, subject to the requirements of this section.

(4) If a written petition, signed by at least 10% of the number of voters voting in the last gubernatorial election in the municipality, requesting a vote on the additional amount is submitted to the municipal officers within 30 days of the council's vote pursuant to subparagraph (2), the article voted on by the council must be submitted to the legal voters in the next regular election or a special election called for the purpose. The election must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the clerk to post a new list of voters. For the purpose of registration of voters, the registrar of voters must be in session the secular day preceding the election. The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the article. The results must be declared by the municipal officers and entered upon the municipal records.

**Sec. D-36. 20-A MRSA §15672**, as amended by PL 2003, c. 712, §12, is further amended to read:

**§15672. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.



1. **Allocation year.** "Allocation year" means the year that subsidy is distributed to school administrative units.

1-A. Adjusted total cost of components of essential programs and services. "Adjusted total cost of the components of essential programs and services" means the total cost of the components of essential programs and services adjusted to reflect the application of the transition targets to the base total component as specified in section 15671, subsection 7, paragraph A.

1-B. Base year. "Base year" means the 2nd year prior to the allocation year.

1-C. Bus purchase costs. "Bus purchase costs" includes expenditures for bus purchases approved by the commissioner and made during the year prior to the allocation year.

2. **Clerical staff.** "Clerical staff" means full-time equivalent public school secretaries, as documented in the department's database.

2-A. Debt service costs. "Debt service costs," for subsidy purposes, includes:

A. Principal and interest costs for approved major capital projects in the allocation year, including the initial local share of school construction projects that received voter approval for all or part of their funding in referendum in fiscal year 1984-85, but excluding payments made with funds from state and local government accounts established under the federal Internal Revenue Code and regulations for disposition of excess, unneeded proceeds of bonds issued for a school project;

B. Lease costs for school buildings when the leases, including leases under which the school administrative unit may apply the lease payments to the purchase of portable, temporary classroom space beginning January 1, 1988, have been approved by the commissioner for the year prior to the allocation year. Beginning July 1, 1998 lease costs include costs for leasing:

(1) Administrative space. A school administrative unit may lease administrative space with state support until July 1, 2003. A school administrative unit engaged in a lease-purchase agreement for administrative space is eligible for state support until July 1, 2008;

(2) Temporary interim nonadministrative space.

(a) A school administrative unit with state-approved need for nonadministrative space may lease temporary interim space, with state support, for a maximum of 5 years. A school administrative unit may appeal to the state board if this limitation presents an undue burden. When making a determination on a school administrative unit's request for relief based on undue burden, the state board may consider, but is not limited to considering, the following:

(i) Fiscal capacity;

(ii) Enrollment demographics; and

(iii) Unforeseen circumstances not within the control of the appealing school administrative unit.

The state board's decision is final.

(b) A school administrative unit engaged in a lease-purchase agreement for temporary interim nonadministrative space is eligible for state support for a maximum of 10 years; and

(3) Permanent small nonadministrative space that replaces or is converted from existing approved leased portable space. The existing approved leased portable space will be eligible for state support until July 1, 2003. Once an existing leased portable space has been converted into a permanent nonadministrative space through an approved lease-purchase agreement, that space is eligible for state support for a maximum of 10 years.

The department shall adopt rules necessary to implement this paragraph. Rules adopted by the department to implement this paragraph are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A;

C. The portion of the tuition costs applicable to the insured value factor for the base year computed under section 5806; and

D. The cost of construction or purchase of portable, temporary classroom space as approved by the commissioner beginning January 1, 1988. For the purposes of this

section, "portable, temporary classroom space" means a project consisting of one or more mobile or modular buildings that are at least partially constructed off site and are designed to be moved to other sites with a minimum of disassembly and reassembly. "Portable, temporary classroom space" includes, but is not limited to, space for regular classrooms, small group instruction, libraries, clinics and guidance and administrative office space, including principal and superintendent offices. The department shall adopt rules for approving the purchase, construction or lease-purchase of portable, temporary classroom space and for determining the amount includable for subsidy purposes. Lease-purchase agreements may not exceed a term of 10 years. Approved costs are those for the year prior to the allocation year. The department shall adopt rules necessary to implement this paragraph. Rules adopted by the department to implement this paragraph are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

**3. Economically disadvantaged students.** "Economically disadvantaged students" means students who are included in the department's count of students who are eligible for free or reduced-price meals or free milk or both.

**4. Education technician.** "Education technician" means a full-time equivalent public teacher aide or education technician I, associate teacher or education technician II or assistant teacher or education technician III but not a special education technician I, II or III, as documented in the department's database.

**5. Elementary free or reduced-price meals percentage.** "Elementary free or reduced-price meals percentage" means the percentage, as determined by the commissioner, that reflects either:

A. The actual percentage of elementary students in a school administrative unit who are eligible to receive free or reduced-price meals or free milk or both; or

B. The commissioner's estimated percentage of elementary students in a school administrative unit who are eligible to receive free or reduced-price meals or free milk or both.

**6. Elementary grades.** "Elementary grades" means kindergarten to grade 8 and includes children enrolled in early kindergarten programs and 4-year-old children enrolled in a 2-year childhood education program prior to grade one.

**7. Elementary school level.** "Elementary school level" means the grades from kindergarten to grade 5 and includes early kindergarten programs and 2-year childhood education programs enrolling 4-year-old children prior to grade one.

**7-A. EPS per-pupil rate.** "EPS per-pupil rate" means the rate calculated under section 15676 or 15676-A, as applicable.

**8. Essential programs and services.** "Essential programs and services" means those educational resources that are identified in this chapter that enable all students to meet the standards in the 8 content standard subject areas of the system of learning results established in chapter 222

**9. Essential programs and services transition percentage.** "Essential programs and services transition percentage" means the ~~full-estimated-cost-for-all-essential-programs-and-services-for~~ that-fiscal-year-that-will-be-funded-by-a-state-contribution-or ~~by-a-required-local-contribution~~ percentage of the base total calculated pursuant to section 15671, subsection 7, paragraph A.

**9-A. Gifted and talented costs.** "Gifted and talented costs" means the cost of programs for gifted and talented students that have been approved by the commissioner.

**10. Grade 9 to 12 portion.** "Grade 9 to 12 portion" means those pupils in the secondary grades or high school level.

**11. Guidance staff.** "Guidance staff" means full-time equivalent public guidance counselors, directors of guidance or school social workers, as documented in the department's database.

**12. Health staff.** "Health staff" means full-time equivalent public school nurses, as documented in the department's database.

**13. High school level.** "High school level" means grade 9 to grade 12

**13-A. Institutional resident.** "Institutional resident" means a person between 5 years of age and 20 years of age who is attending a public school of the school administrative unit and who is committed or otherwise legally admitted to and residing at a state-operated institution. "Institutional resident" does not include students attending private facilities, regardless of the means of placement.

**~~14.---Income-weight.---~~** ~~"Income-weight" means a value between zero and one that is used to adjust a municipality's ratio of local median household income to the statewide median household~~

~~income.--The income weight plus the property weight,--as defined in subsection 24, must total one.~~

**15. Kindergarten to grade 8 portion.** "Kindergarten to grade 8 portion" means those pupils in the elementary grades or a combination of the elementary school level and middle school level.

**16. Kindergarten to grade 2 student.** "Kindergarten to grade 2 student" means a student in any grade from prekindergarten to grade 2 who is at least -5- 4 years old on October 15th of the school year.

**17. Librarian.** "Librarian" means a full-time equivalent public librarian or media specialist, as documented in the department's database

**18. Limited English proficiency student.** "Limited English proficiency student" means a student who was not born in the United States or whose native language is a language other than English and who satisfies the definition of a limited English proficient student under the federal No Child Left Behind Act of 2001, 20 United States Code, Chapter 70.

**18-A. Major capital costs.** "Major capital costs" means costs relating to school construction projects, as defined in section 15901.

**19. Media assistant.** "Media assistant" means a full-time equivalent public librarian aide or library technician I, librarian assistant or library technician II or librarian associate or library technician III, as documented in the department's database.

**20. Middle school level.** "Middle school level" means grade 6 to grade 8.

**20-A. Minor capital costs.** "Minor capital costs" means costs relating to plant maintenance, minor remodeling, site development or the purchase of land not in conjunction with a construction project.

A. "Minor capital costs" does not include construction of new buildings or the purchase of land in conjunction with a school construction project.

B. Expenditures to repay funds borrowed for minor capital expenditures must be considered minor capital costs in the year in which these funds are repaid.

C. Purchase of land made in accordance with this subsection must be approved:

(1) By the legislative body of the school administrative unit; and

(2) By the commissioner, under rules adopted for this purpose.

**21. Municipality.** "Municipality" means a city, town or organized plantation.

**21-A. Other subsidizable costs.** "Other subsidizable costs" means those costs identified in section 15681-A. These costs are part of the total operating allocation under section 15683.

**21-B. Portable, temporary classroom space.** "Portable, temporary classroom space" means one or more mobile or modular buildings that are at least partially constructed off site and that are designed to be moved to other sites with a minimum of disassembly and reassembly.

~~22.--Per pupil guarantee.--"Per pupil guarantee"--means--the total--amount--of--funds--that--is--made--available--for--each subsidizable-pupil-representing-the-following-cost-components:~~

~~A.--Salary-and-benefit-costs-for-school-level-teaching-staff;~~

~~B.--Salary-and-benefit-costs-for-other-identified-school level-staff;~~

~~C.--Designated-costs-for-substitute-teachers;-and~~

~~D.--Identified-nonstaffing-costs.~~

**22-A. Predicted per-pupil transportation costs.** "Predicted per-pupil transportation costs" means the predicted transportation costs for a school administrative unit based on the number of resident pupils, the number of miles of Class 1 to Class 5 roads in the school administrative unit and approved adjustments. Approved adjustments include a per mile rate equal to the state average gross transportation operating costs per mile driven for transportation associated with out-of-district special education programs, up to 2 round trips per day for vocational education programs, and adjustments for expenditures for ferry services within a school administrative unit, transportation of homeless children in accordance with section 5205 and transportation costs of island school administrative units.

**23. Property fiscal capacity.** "Property fiscal capacity" means the certified state valuation amount for the year prior to the most recently certified state valuation.

~~24. ---Property--weight.---"Property--weight"---means---a---value between zero and one that is used to adjust a municipality's ratio of local per pupil property fiscal capacity to the statewide per pupil property fiscal capacity. The income weight, as defined in subsection 14, plus the property weight must total one.~~

**25. School administrative staff.** "School administrative staff" means full-time equivalent public school principals and assistant principals, as documented in the department's database.

**26. School administrative unit's local contribution to EPS per-pupil rate.** "School administrative unit's local contribution to the ~~per-pupil-guarantee~~ EPS per-pupil rate" means the funds that a school administrative unit provides for each subsidizable pupil who resides in that unit.

**27. School administrative unit's state contribution to EPS per-pupil rate.** "School administrative unit's state contribution to the ~~per-pupil-guarantee~~ EPS per-pupil rate" means the funds that the State provides to a school administrative unit for each subsidizable pupil who resides in that unit.

**28. School level.** "School level" means elementary level, middle school level and high school level

**29. School level teaching staff.** "School level teaching staff" means full-time equivalent public classroom teachers, itinerant classroom teachers and special teachers of reading or literacy specialists excluding special education teachers and vocational education teachers, as documented in the department's database.

**30. Secondary grades.** "Secondary grades" means grade 9 to grade 12.

**30-A. Special education costs.** "Special education costs" for subsidy purposes includes:

A. The salary and benefit costs of certified professionals, assistants and aides or persons contracted to perform a special education service;

B. The costs of tuition and board to other schools for programs that have been approved by the commissioner and not

paid directly by the State. Medical costs are not allowable as part of a tuition charge;

C. The following preschool handicapped services:

(1) The salary and benefit costs of certified professionals, assistants and aides or persons contracted to perform preschool handicapped services that have been approved by the commissioner; and

(2) The cost of tuition to other schools for programs that have been approved by the commissioner; and

D. Special education costs that are the costs of educational services provided to students who are temporarily unable to participate in regular school programs. Students who may be included are pregnant students, hospitalized students or those confined to their homes for illness or injury, students involved in substance abuse programs within hospital settings or in residential rehabilitation facilities licensed by the Department of Health and Human Services, Office of Alcoholism and Drug Abuse Prevention for less than 6 weeks duration or students suffering from other temporary conditions that prohibit their attendance at school. Students served under this paragraph may not be counted as exceptional students for federal reporting purposes.

30-B. State-operated institution. "State-operated institution" means any residential facility or institution that is operated by the Department of Health and Human Services or a school operated by the Department of Education.

31. State share percentage. "State share percentage" means the percentage of the sum--of--the--following--amounts--that--is provided--by--a--state--appropriation; state contribution determined under section 15688, subsection 3, paragraph B divided by the total cost determined in section 15688, subsection 1.

A,---Operating--costs--total--allocation,--as--described--in section-15683;

B,---Program costs allocation,--as described in section-15608, subsection-2;

C,---Allocations--for--debt--service--costs,--as--defined--in section-15603,--subsection-8,--and

D,---Allocations--for--all--adjustments--and--miscellaneous--costs authorized--pursuant--to--sections-15612--and--15613.



31-A. State subsidy. "State subsidy" means the total of the state contribution determined under section 15688, subsection 3-A, paragraph B and any applicable adjustment under section 15689.

31-B. Subsidizable costs. "Subsidizable costs" includes the costs described in paragraphs A to C and used to calculate the total allocation amount:

A. The total operating allocation under section 15683;

B. Debt service cost; and

C. Adjustments and miscellaneous costs under sections 15689 and 15689-A including special education tuition and board, excluding medical costs. For purposes of this paragraph, "special education tuition and board" means:

(1) Tuition and board for pupils placed directly by the State in accordance with rules adopted or amended by the commissioner; and

(2) Special education tuition and other tuition for institutional residents of state-operated institutions attending programs in school administrative units or private schools in accordance with rules adopted or amended by the commissioner.

32. Subsidizable pupils. "Subsidizable pupils" means all school level pupils who reside in a school administrative unit and who are educated at public expense at a public school or at a private school approved for tuition purposes.

32-A. Total allocation. "Total allocation" means the total of the operating allocation as described in section 15683 and the debt service allocation as described in section 15683-A.

Nonsubsidizable costs are not considered in the calculation of the total allocation. "Nonsubsidizable costs" includes the following:

A. Community service costs;

B. Major capital costs;

C. Expenditures from all federal revenue sources, except for amounts received under United States Public Law 81-874;

D. Transportation costs not associated with transporting students from home to school and back home each day; and

E. Costs payable to the Maine State Retirement System under Title 5, section 17154, subsections 10 and 11.

**32-B. Total cost of components of essential programs and services.** "Total cost of the components of essential programs and services" means the total of the following components:

A. The base total determined pursuant to section 15683, subsection 1;

B. Other subsidizable costs identified in section 15681-A;

C. Debt service costs;

D. Adjustments determined pursuant to section 15689; and

E. Miscellaneous costs appropriated pursuant to section 15689-A.

**32-C. Transportation operating costs.** "Transportation operating costs" means all costs incurred in the transportation of pupils in kindergarten to grade 12, including lease costs for bus garage and maintenance facilities and lease-purchase costs that the school administrative unit may apply to the purchase of bus garage and maintenance facilities, when the leases and lease-purchase agreements have been approved by the commissioner, but excluding the costs of bus purchases and excluding all costs not associated with transporting students from home to school and back home each day. The amount includable for determining the subsidy for a school administrative unit for lease-purchase of bus garage and maintenance facilities may not exceed the amount for the lease of a comparable facility.

**32-D. Vocational education costs.** "Vocational education costs" for subsidy purposes means all costs incurred by the vocational regions, centers or satellites in providing approved secondary school vocational education programs, excluding transportation, capital costs and debt service.

**32-E. Year.** "Year" means a fiscal year starting July 1st and ending June 30th of the succeeding year.

**33. Year of funding.** "Year of funding" means the fiscal year during which state subsidies are disbursed to school administrative units, except as specified in section 15005, subsection 1.